

Before The  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

---

*In the Matter of:* :  
Pimmit Branch :  
Falls Church, Virginia 22043 : Docket No. A2011-90  
(Elaine J. Mittleman, Petitioner):  
:

---

**MOTION OF PETITIONER  
FOR RECONSIDERATION OF  
ORDER NO. 958  
(November 10, 2011)**

Petitioner Elaine Mittleman hereby respectfully submits this motion for reconsideration of Order No. 958, Order Denying Application for Suspension, November 9, 2011.

The Postal Regulatory Commission stated in Docket No. A2011-19, Order No. 762, Order Denying Application for Suspension, July 19, 2011, at 2, that the Commission must evaluate the application for suspension in light of the Postal Service's well-publicized financial difficulties.

In this appeal, the record indicates that the Pimmit Branch is profitable. If the decision about whether the Pimmit Branch should remain open or be closed is evaluated based on the Postal Service's financial difficulties, then presumably the Pimmit Branch should remain open. The closing of a

profitable branch would likely further contribute to the financial difficulties of the Postal Service.

Further, closing the Pimmit Branch before the appeal is concluded may incur additional unneeded costs to the Postal Service. If the appeal is successful and the Pimmit Branch is reopened, the Postal Service will have put itself in a position of having to pay for expenses which would not have been necessary absent the premature closure. The closing of the Pimmit Branch before the appeal is concluded seems premised upon the assumption that the appeal will inevitably be unsuccessful.

There is a right to petition for review of the orders of the Postal Regulatory Commission in the United States Court of Appeals for the District of Columbia Circuit. *See* 39 U.S.C. § 3663, which provides that a person adversely affected by a final order of the Postal Regulatory Commission may petition for review in the United States Court of Appeals for the District of Columbia Circuit.

The determination to close the Pimmit Branch should be based upon a proper record which includes a valid financial analysis. If the Postal Regulatory Commission is concerned about the financial difficulties of the Postal Service, then the Commission can provide guidance to the extent that it insists the Postal Service base its decisions on a substantive record

concerning the financial impact of closing retail facilities. The financial situation of the Postal Service does not by itself provide a basis, absent substantive analysis of each specific retail facility, to close retail facilities.

Finally, the Order states that Chairman Goldway dissented and that Commissioner Langley did not participate. If the number of Commissioners is considered to be five, then a majority of three did not vote to deny the application for suspension. If the number of Commissioners is considered to be four, then the two votes to deny the application for suspension similarly do not comprise a majority. If the Commission requires a majority vote to deny an application for suspension, then there apparently was no majority vote in this case.

### **CONCLUSION**

For the foregoing reasons, Petitioner respectfully requests that Order No. 958 be reconsidered and that the application for suspension be granted.

Respectfully submitted,

/s/ Elaine Mittleman  
Elaine Mittleman  
2040 Arch Drive  
Falls Church, VA 22043  
(703) 734-0482  
Petitioner